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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,467	11/07/2001	Hiroshi Inoue	09792909-5258	3706

26263 7590 02/25/2004

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EXAMINER

WILLS, MONIQUE M

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/053,467

Applicant(s)

INOUE ET AL.

Examiner

Wills M Monique

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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DETAILED ACTION

*Priority*

Japanese foreign priority document(s) P2000-339546, filed November 7, 2000 and submitted under 35 U.S.C. 119(a)-(d), has/have been received and placed of record in the file.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

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Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Kawakami et al. U.S. Patent 6,432, 585.

Kawakami teaches an electrode structural body comprising a plate-like shaped collector having opposite surfaces and an electrode material layer formed on at least one of said opposite surfaces of said collector (abstract). With respect to claims 1 & 6, Kawakami teaches a negative electrode comprising tin, copper and bismuth (col. 52, lines 45-65). With respect to claims 2 & 7, Kawakami teaches a negative electrode comprising silicon, copper, tin (col. 55, lines 55-68), and optionally includes indium (col. 11, lines 10-20). With respect to claims 3 & 8, the host matrix material may include Si (element B), Sn (element B) and In (element C) at 35 wt% or more (col. 5, lines 20-30; col. 11, lines 10-15); and copper (element A) may be used in a range of 1 to 30% (col. 12, lines 10-20 & 50-68; col. 13 lines 1-5). Regarding claim 6, the anode is employed in a nonaqueous secondary battery comprising a positive electrode and a nonaqueous electrolyte (col. 29, lines 10-20). With respect to claims 11 & 12, the negative electrode further contains a carbonaceous material consisting of graphite (col. 52, lines 55-68). The prior art of Kawakami anticipates the instant claims as set forth. The limitation in claims 4 & 9, with respect to the A-B-C composition having low crystallinity, is considered to be an inherent property of the electrode composition as set forth in the prior art, because Kawakami employs the same electrode material set forth by

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Applicant. The limitation in claims 5 & 10, with respect to the A-B-C composition being amorphous, is considered to be an inherent property of the electrode composition as set forth in the prior art, because Kawakami employs the same electrode material set forth by Applicant. The limitation in claim 11, with respect to the negative electrode further containing a carbonaceous material which is capable of being doped and undoped with lithium, is considered to be an inherent property of the electrode composition as set forth in the prior art, because Kawakami employs the same carbonaceous graphite additive set forth by Applicant.

#### *Conclusions*

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Monique Wills whose telephone number is (571) 272-1309. The Examiner can normally be reached on Monday-Friday from 8:30am to 5:00 pm.

If attempts to reach Examiner by telephone are unsuccessful, the Examiner's supervisor, Randy Gulakowski, may be reached at 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mw

02/13/04

*Bruce Bell*  
BRUCE F. BELL  
PRIMARY EXAMINER  
GROUP 1746